

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement for dates of service 7-30-01 through 9-27-01.
- b. By request of the Medical Review Division, an updated Table of Disputed Services was date-stamped received from the Requestor on 3-27-03. This table will be utilized and overrides the table initially filed with the original dispute.
- c. The request was received on 7-29-02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFAs
 - c. EOBs and example EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution
 - b. EOBs
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 8-26-02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 8-26-02. The response from the insurance carrier was received in the Division on 9-9-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by the Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Position statement taken from the Table of Disputed Services:
"The multi disciplinary [sic] team consisting of (M.D.), Licensed Psychologists, Kinesiologists, Licensed Professional Counselors, Licensed Vocational Rehabilitation

Counselors, Biofeedback Therapists and Chiropractors provide healthcare to (Claimant) reasonably required by the nature of the injury that cured or relieved the effects naturally resulting from the compensable injury, promoted recovery, and/or enhanced the ability of (Claimant) to return to or retain employment. To meet these goals, the team provided a Chronic Pain Management Program utilizing protocols established by the Commission of Accreditation of Rehabilitation Facilities (CARF) and published in their 1994 Standards Manual. This type of program provides coordinated, goal-oriented interdisciplinary team services to reduce pain, improve functioning, and decrease the dependence on the health care system of persons with chronic pain syndrome.... Chronic Pain Management is billed as code 97799-CP for each day and the number of hours spent in the program is indicated on the bill. Documentation of procedure is required and was provided to the carrier.... The procedure 97799-CP does not have an established maximum allowable reimbursement and is a DOP procedure. (Requestor) has provided (Audit Company) with all pertinent information in summary form.... (Audit Company) [sic] statement that they reduced payment in accordance with the medical fee guideline is false. Other comments provided on the EOB for dates of service, 7/31 – 08/01/01 are ‘Per adjusters VNF (unknown acronym) treatment has exceeded the medical fee guideline.’ Again, these comments alone do NOT help (Requestor) to understand the nature of the denial. They were, therefore, unable to address this comment in their Request for Reconsideration. (Requestor) specifically objects to (Audit Company’s) use of the following codes: Code ‘N’ – ‘Not appropriately documented’, Code ‘N17’ – ‘Not documented. Upon review, documentation submitted did not contain information specific to this service’.... First (Audit Company’s) statements are not sufficiently explanatory to enable (Provider) to fully respond. Secondly, Codes N accompanied by numbers such as 5, 10, 11 and 17 are not in accordance with TWCC Rule 133.304(c). These denial codes are not found on the TWCC-62 (7/2000)....(Requestor) objects to (Audit Company’s) use of denial code, ‘M’ – ‘Reduced to Fair & Reasonable’. The Commission, in accordance with the Act, determined that some services are unusual or too variable to have an assigned MAR. The value of the service shall be determined by written documentation attached to or included in the bill. (Requestor) and the multi disciplinary [sic] staff ...have complied with this definition.”

2. Respondent: Letter dated 9-5-02:

“The (Carrier) received billing for dates of service ranging from July 30, 2001 through September 27, 2001, for audit. In review of the submitted billed services, charges were denied based on the documentation for dates of service August 2, 2001, August 6, 2001, August 7, 2001, August 8, 2001, August 13, 2001, August 14, 2001, August 16, 2001, August 28, 2001, September 10, 2001, September 11, 2001 and September 26, 2001 which were presented by the requestor. According to the current TWCC Medical Fee Guideline, CPT Code 97799 is to be billed on a hourly basis with required documentation of daily treatment and patient response to that daily treatment. The documentation provided by (Requestor) does not include the daily progress or response of the claimant to the daily treatment. With regard to Chronic Pain Management, it should reduce pain, improve functioning, and decrease dependence on health care. The documentation provided to the (Carrier) does not contain elements to ensure continued progress, nor does it show the direct on-site supervision of the daily pain management activities in accordance with requirements established by the Medical Fee Guideline’s Medicine

Ground Rules. Without the proper documentation the (Carrier) cannot provide reimbursement for services billed. Therefore based on the denials for documentation the (Carrier) will maintain our position that the documentation submitted does not support the services billed. The (Carrier) previously determined that erroneous audits were performed on dates of service 07/30/01, 07/31/01, 08/01/01, 08/03/01, 08/09/01, 08/10/01, 08/17/01, 08/20/01, 08/24/01, 08/27/01, 08/29/01, 08/31/01, 09/05/01, 09/06/01, 09/11/01, 09/12/01, 09/13/01, 09/14/01, 09/24/01, 09/25/01, and 09/27/01. Due to the erroneous audits found during a review of violation referral #85624 on 04/10/02 the (Carrier) waived the reconsideration process and reimbursed for services accordingly during the week of April 15, 2002.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 7-30-01 and extending through 9-27-01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$11,100.00 for services rendered on the above dates in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$3,034.00 for services rendered on the above dates in dispute.
5. Per the Requestor’s Table of Disputed Services, the amount in dispute is \$8,066.00 for services rendered on the above dates in dispute.
6. The Carrier’s EOBs deny additional reimbursement as “**T** – Not According to Treatment Guidelines; **F70** – Reduction According to Fee Guideline. Exceeds the limitations of the Physical Medicine Ground Rules; **F** – Reduction According to Fee Guideline; **N** – Not Appropriately Documented; **D** – Duplicate Charge; **U** – Unnecessary Medical Treatment or Services; **N17** – Not Documented. Upon review, documentation submitted did not contain information specific to this service; **N11**-Not Documented. Upon review, documentation as submitted does not support the level of service(s) billed; **M** – Reduced to Fair & Reasonable; **N5** – Not Documented Medical necessity for the service(s) has not been established; please forward substantiating documentation to the carrier; **N10** Not Documented. A report and/or Documentation of Procedure is required for consideration of the charge(s) as billed. Please forward the necessary documentation to the carrier; **R4** – Charge Unrelated to the Compensable injury. The supplies/services are not (or appear not to be) related to the worker’s compensation injury of this claimant; **N-72** Not Documented. Documentation must include treatment provided (with days of week), response to treatment, progressive overall improvement of symptoms; failure to respond to treatment should reflect a change of the treatment plan; **N12** Not Documented. Upon review, documentation as submitted does not support the medical necessity of this service.”

DOS	CPT or Revenue CODE	BILLED	PAID	EOB	MARS	REFERENCE	RATIONALE:
7-30-01 7-31-01 8-3-01 8-9-01 8-10-01 8-17-01 8-20-01 8-22-01 8-24-01 8-27-01 8-28-01 8-29-01 8-31-01 9-5-01 9-11-01 9-12-01 9-13-01 9-14-01 9-24-01	97799-CP-AP for all dates of service	\$555.00 \$555.00 \$555.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00 \$370.00	\$222.00 \$222.00 \$222.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00 \$148.00	T, M F70, M F, M D,F,M U, M M M M M M N17,M M M N5, M D, M D, M N5, M N10,M N5 R, M	No MAR DOP	MFG: Medicine Ground Rules (II) (G); TWCC Rule 133.307 (j) (1) (G); 133.307 (g) (3) (D); 413.011 (d); 133.304 (i); CPT Descriptor	<p>The carrier has reimbursed the provider at \$74.00 per hr. for Chronic Pain Management. The Provider has billed \$185.00 per hr. CPT Code 97799-CP-AP is reimbursed at fair and reasonable.</p> <p>The Carrier initially denied the disputed services as “M, T, F70, U, N5, D, F10 and R” However Carrier’s position statement indicates “Due to the erroneous audits found during a review of violation referral #85624 on 04/10/02 the (Carrier) waived the reconsideration process and reimbursed for services accordingly during the week of April 15, 2002.” With a payment being issued for the dates in dispute all other dispute codes are a moot point and only the denial of “M” will be addressed.</p> <p>Pursuant to Rule 133.307 (g) (3) (D), the requestor must provide “...documentation that discusses, demonstrates and justifies the payment amount being sought is a fair and reasonable rate of reimbursement...”. The Provider has submitted example EOBs. However, the EOBs submitted reflect various hourly rates billed for their Chronic Pain Program. Hourly billed rates ranged from \$180.00 to \$225.00 per hour. Some of the EOBs were unable to be utilized in review as they did not contain the total number of units billed and could not be utilized to determine what hourly rate was billed. The EOBs that did list units billed reflected the various hourly rates mentioned above.</p> <p>Therefore, it is difficult to determine how this documentation discusses, demonstrates, or justifies that the hourly rate sought represents fair and reasonable. The rates themselves were variable with no documentation to support what determined when one hourly rate is billed as opposed to another.</p> <p>The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. However, the burden is on the Provider to prove that the fees requested are fair and reasonable. In this case, the Requestor has failed to support their hourly charge.</p> <p>Therefore, no additional reimbursement is recommended.</p>

8-2-01	97799-CP-AP for all dates of service	\$555.00	\$-0-	N	No Mar DOP	TWCC Rule 133.304 (c); 133.307 (j) (2)	<p>The Carrier has made no reimbursement for the dates of service in dispute and has denied the dates with various denials as identified in the "Findings" section of this decision.</p> <p>TWCC Rule 133.304 (c) states, "The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's actions(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description for the reason for the reduction or denial of payment does not satisfy the requirements of this section."</p> <p>Likewise TWCC Rule 133.307 (j) (2) states "The response shall address only those denial reasons presented to the requestor prior to the date the request for medical dispute resolution was filed with the division and the other party. Responses shall not address new or additional reasons or defenses after the filing of an request. Any new denial reasons or defenses raised shall not be considered in the review."</p> <p>The Carrier has indicated on their position statement specific deficits in the Provider's documentation. However, these deficits were not noted on the EOBs and therefore are unable to be utilized for review purposes.</p> <p>Therefore, the Carrier has failed to comply with 133.304 (c) and has failed to provide sufficient explanation of their denial prior to dispute filing as required by Rule 133.307 (j) (2). Therefore, additional reimbursement is recommended in the amount of \$3,515.00.</p>
8-6-01		\$185.00	\$-0-	N			
8-7-01		\$370.00	\$-0-	N			
8-8-01		\$370.00	\$-0-	N			
8-13-01		\$370.00	\$-0-	N17			
8-14-01		\$370.00	\$-0-	N17			
8-16-01		\$370.00	\$-0-	N11			
9-10-01		\$185.00	\$-0-	N11			
9-26-01		\$370.00	\$-0-	N72			
9-27-01		\$370.00	\$-0-	N5			
Totals		\$11,100.00	\$3,034.00			The Requestor is entitled to additional reimbursement in the amount of \$3,515.00 .	

The above Findings and Decision are hereby issued this 01st day of April 2003.

Lesia Lenart
Medical Dispute Resolution Officer
Medical Review Division

LL/II

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$3,515.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

MDR: M4-02-4636-01

This Order is hereby issued this 01st day of April 2003.

Carolyn Ollar
Medical Dispute Resolution Officer
Medical Review Division

CO/ll